

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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|-----------------------------|---|-------------------------------|
| Separation Engineers, Inc., |) | Civil Action No. 4:12-cv-1713 |
| |) | |
| Plaintiff |) | JURY TRIAL DEMANDED |
| |) | |
| vs. |) | |
| |) | |
| ConocoPhillips Company, |) | |
| |) | |
| Phillips 66 Company, and |) | |
| |) | |
| WRB Refining LP |) | |
| |) | |
| Defendants. |) | |

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff Separation Engineers, Inc. (“SEI” or “Plaintiff”), brings this action against defendants ConocoPhillips Company (“COP”), Phillips 66 Company (“Phillips 66”) and WRB Refining LP (“WRB Refining”), collectively referred to herein as “Defendants,” and based on information and belief, alleges as follows:

THE PARTIES

1. Plaintiff is a Texas corporation with its principal place of business in Harris County, Texas.

2. COP is a corporation organized under the laws of the State of Delaware. COP maintains a principal place of business at 600 N. Dairy Ashford Road, Houston, Texas 77079 and may be served with process by serving its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

3. Phillips 66 is a corporation organized under the laws of the State of Delaware. Phillips 66 maintains a principal place of business at 600 N. Dairy Ashford Road, Houston,

Texas 77079 and may be served with process by serving its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

4. WRB Refining is a limited partnership organized under the laws of the State of Delaware. WRB Refining maintains a principal place of business at 600 N. Dairy Ashford Road, Houston, Texas 77079 and may be served with process by serving its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

5. WRB Refining LP is, was, or at times may also have been known as WRB Refining LLC. On information and belief, WRB Refining LP is the name of the current joint venture of the facility owner as described above and, to the extent WRB Refining LLC was at any time the name of the joint venture owner of the facility described herein, WRB appears to be its successor in this regard.

JURISDICTION AND VENUE

6. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over all Defendants, each of whom has its principal place of business in Houston, Texas.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendants reside in this judicial district.

FACTUAL BACKGROUND

9. At least as early as 2003, SEI was engaged in the business of developing and commercializing separation technologies for clients in the oil, gas, refining and petrochemical

industries. At all times relevant, Ms. Charlotte Droughton (“Droughton”) was and is the President and owner of SEI.

10. On January 11, 2011, the United States Office issued patent number 7,867,382 (“the ‘382 patent”), entitled “Processing Unconventional and Opportunity Crude Oils Using one or More Mesopore Structured Materials.”

11. SEI owns all rights to the ‘382 patent, including the right to sue for past and present infringement.

12. A true and correct copy of the ‘382 patent is attached as Exhibit A.

13. On information and belief, COP, Phillips 66 and WRB Refining were aware SEI had applied for and obtained the ‘382 patent.

14. Droughton, as President of SEI, disclosed information to COP concerning her separation technology, including the subject matter of the claims of the ‘382 patent.

15. Until April 2012, COP owned and operated several oil refineries in the United States.

16. In 2006, COP announced it would enter into a partnership with EnCana, a Canadian oil company, now known as Cenovus.

17. One purpose of the COP/EnCana partnership would be to expand the heavy oil processing capacity of two COP refineries in the United States, including a multi-billion dollar expansion of a COP refinery in Wood River, Illinois.

18. The COP and EnCana refinery partnership would be named WRB Refining LLC, and later WRB Refining LP.

19. Both COP and EnCana were general partners in WRB Refining.

20. WRB Refining would assume ownership of COP's refineries in Roxana, Illinois and Borger, Texas. EnCana would own 50% of WRB Refining and COP would own the other 50%. COP would operate both refineries.

21. In 2012, COP split its company in two companies, COP and Phillips 66. Phillips 66 owns the refineries previously owned by COP.

22. Phillips 66 replaced COP as a general partner in WRB Refining and operates both refineries owned by WRB Refining.

**COUNT I
PATENT INFRINGEMENT**

23. All preceding paragraphs are incorporated by reference as if fully set forth herein.

24. Upon information and belief, COP, Phillips 66 and WRB Refining have been or are engaged in processing crude oil, including unconventional and heavy crude oil.

25. Upon information and belief, COP, Phillips 66 and WRB Refining have been or are using mesoporous materials to, *inter alia*, destabilize emulsions, to remove contaminants and impurities and to remove acids from process streams using methods which infringe one or more of the claims of the '382 patent.

26. Upon information and belief, COP, Phillips 66 and WRB Refining have been or are infringing one or more claims of the '382 patent by practicing the processes described in one or more of the claims of the '382 patent. This has taken place in one or more of their processing plants, such as the Sweeny, Borger, Ferndale, Billings and Wood River refineries.

27. Upon information and belief, COP's, Phillips 66's and WRB Refining's use of this patented technology comes as a result of COP's copying work prepared by and owned by SEI.

28. Upon information and belief, COP, Phillips 66 and WRB Refining have been objectively reckless in ignoring the likelihood they were infringing a United States patent. Their infringement of the '382 patent is therefore willful.

JURY DEMAND

29. SEI requests a jury trial on all claims and issues.

PRAYER FOR RELIEF

SEI prays for entry of judgment that:

A. COP, Phillips 66 and WRB Refining have infringed one or more of the claims of the '382 patent;

B. COP, Phillips 66 and WRB Refining account for and pay to SEI all damages caused by their infringement of the '382 patent, which by statute can be no less than a reasonable royalty;

C. the infringement by COP, Phillips 66 and WRB Refining is and was willful and objectively reckless and accordingly that SEI is entitled to enhanced damages under 35 U.S.C. § 284;

D. this case is an exceptional one within the meaning of 35 U.S.C. § 285 and awarding SEI reasonable attorneys fees;

E. SEI be awarded prejudgment and postjudgment interest;

F. SEI be awarded costs; and

G. SEI be granted all such other and further relief as the Court may deem just and proper.

Dated June 7, 2012

Respectfully submitted,

/s/ Edward W. Goldstein
Edward W. Goldstein – Attorney-in-Charge
Texas Bar No. 08099500
Southern District of Texas Bar No. 586
Alisa A. Lipski
Texas Bar No. 24041345
Southern District of Texas Bar No. 570018
GOLDSTEIN & LIPSKI, P.L.L.C.
1177 West Loop South, Suite 400
Houston, Texas 77027
Telephone: (713) 877-1515
Facsimile: (713) 877-1737
E-Mail: egoldstein@gliplaw.com
alipski@gliplaw.com

ATTORNEYS FOR PLAINTIFF

OF COUNSEL

Gary J. Fischman
Texas Bar Number 00787469
Southern District of Texas Bar No.: 17126
Fischman & Lundwall P.L.L.C.
1177 West Loop South, Suite 400
Houston, Texas 77027
Telephone: (832) 209-4206
Facsimile: (713) 877-1737
E-Mail: gfischman@FandLattorneys.com

ATTORNEYS FOR PLAINTIFF